

Hon. Jamal N. Whitehead

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MALYNA TIEV and JAMES NORRIS,
individually and as wife and husband, and the
marital community composed thereof,

Plaintiffs,

v.

THE STANDARD FIRE INSURANCE
COMPANY,

Defendant.

NO. 2:23-cv-00950 JNW

ORDER RE: DEPOSITION
DESIGNATIONS FOR TANYA
BLACHOWICZ

This Court, having reviewed the designated deposition testimony of Tanya Blachowicz, as well as the objections and counter-designations thereto, rules as follows:

WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
6:3-11		No objection; no response required. Understanding she is under oath.	
10:16-20	Relevance	Goes to the fact that she is an out-of-state, non-Washington resident – goes to her qualifications to evaluate WA claims.	OVERRULED
11:7 – 12:6	Relevance	Goes to the fact that she is an out-of-state, non-Washington resident who has never been licensed as a	OVERRULED

ORDER RE: DEPOSITION DESIGNATIONS FOR
TANYA BLACHOWICZ - 1
(2:23-cv-00950-JNW)

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WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
		nurse/LPN in Washington state – goes to her qualifications to evaluate WA claims.	
12:9-19		No objection; no response required (employment positions with Travelers/The Standard)	
14:2-10		No objection; no response required (date of assignment to claim)	
15:4-20	Speculation Foundation	Relates to number of in-house nurses employed by The Standard/Travelers; relevant to claims practices at issue in case	OVERRULED
15:24 – 16:10		Relates to the nature of claims reviewed by this in-house LPN and her experience with insurance law, and the way in which claims are evaluated in the auto arena at The Standard/Travelers. Simple background.	
16:15-25		No objection; no response required, but relates to the nature of claims reviewed by this in-house LPN and her experience with insurance law, and the way in which claims are evaluated in the auto arena at The Standard/Travelers. Simple background.	
17:1-22		Same as immediately above.	
18:1-8		Same as immediately above.	
20:10-12		Same as immediately above.	
23:19 – 24:4		Same as immediately above.	
26:1-7	Form	Same as immediately above.	OVERRULED
29:25 – 30:7	Speculation	Same as immediately above.	OVERRULED
32:2 – 4		Same as immediately above.	

ORDER RE: DEPOSITION DESIGNATIONS FOR
TANYA BLACHOWICZ - 2
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WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
33:25 – 35:15	Form	Goes directly to her qualifications as an LPN vs. a medical doctor/physician, relevant to the issues in this case. Is a party-deponent so leading questions are allowable also.	OVERRULED
36:9-20	Vague and Ambiguous Asked and Answered Cumulative	The question relates to what an LPN can and cannot do in terms of practice and qualifications to opine on the Plaintiff's claim. Goes directly to her qualifications as an LPN vs. a medical doctor/physician and is directly relevant to the issues in this case as this claim was reviewed by a non-qualified individual of a different kind than treated the plaintiff, in violation of Washington insurance law. Is also a party-deponent so leading questions are allowable also and statements qualify as admissions.	OVERRULED
37:11-24	Vague and Ambiguous Asked and Answered Cumulative	The question relates to what an LPN can and cannot do in terms of practice and qualifications to opine on the Plaintiff's claim. Goes directly to her qualifications as an LPN vs. a medical doctor/physician and is directly relevant to the issues in this case as this claim was reviewed by a non-qualified individual of a different kind than treated the plaintiff, in violation of Washington insurance law. Is also a party-deponent so leading questions are allowable also	OVERRULED

WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
		and statements qualify as admissions.	
38:14-25	Legal Conclusion, Speculation	Relates to the witnesses' knowledge of Washington insurance law and the requirements of the same when reviewing claims for her insurer-employer. Goes directly to her qualifications to properly evaluate claims consistent with WA law. Also relates to the training she has received/no received which is relevant to The Standard's claims practices.	OVERRULED
39:1-17	Legal Conclusion, Speculation	Continuation of the passages immediately above: relates to the witnesses' knowledge of Washington insurance law and the requirements of the same when reviewing claims for her insurer-employer. Goes directly to her qualifications to properly evaluate claims consistent with WA law. Also relates to the training she has received/no received which is relevant to The Standard's claims practices.	OVERRULED
40:2-22	Legal Conclusion Foundation Speculation Vague and Ambiguous	All questioning goes to employee's understanding of claims adjusting standards and duty to fairly evaluate UIM claims of insureds of The Standard. Also testimony of party-deponent, so testimony constitutes admissions given the reliance on her opinions as part of the claims evaluation process.	OVERRULED
41:7-9		No objection; no response required.	

WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
42:23 – 43:4	Asked and Answered	All testimony goes to the witnesses' evaluation of the subject claim and claims evaluation process; directly relevant to the issues of bad faith raised in this case. Testimony of party-deponent also = admissions.	OVERRULED
43:10-22	Relevance Vague and Ambiguous Speculation	All testimony goes to the witnesses' qualifications to reach the conclusions she reached and to her evaluation of the subject claim and claims evaluation process; directly relevant to the issues of bad faith raised in this case. Testimony of party-deponent also = admissions.	OVERRULED
44:10-18	Speculation	The witness clearly had the knowledge to respond to the questions posed, and did so. No indication she was speculating. Furthermore, all testimony goes to the witnesses' qualifications to reach the conclusions she reached and to the fairness/unfairness of her evaluation of the subject claim and claims evaluation process; directly relevant to the issues of bad faith raised in this case. Testimony of party-deponent also = admissions.	OVERRULED
44:19 – 45:5	Speculation Vague and Ambiguous Relevance	Same as immediately above.	OVERRULED
46:3-13	Speculation Foundation	The witness clearly had the knowledge to respond to the questions posed, and did so. No indication she was	OVERRULED

WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
		speculating. Furthermore, all testimony goes to the witnesses' qualifications to reach the conclusions she reached and to the fairness/unfairness of her evaluation of the subject claim and claims evaluation process; directly relevant to the issues of bad faith raised in this case. Testimony of party-deponent also = admissions.	
47:9-12	Asked and Answered Cumulative	Goes to the witnesses' training from The Standard on WA law, and thus her qualifications to appropriately evaluate the claim she was tasked with evaluating for the adjuster.	OVERRULED
48:20 – 49:6	Speculation	Testimony goes to the workload of the witness and thus the thoroughness of her evaluation of the Plaintiff's claim. Not speculation at all; discusses the witnesses' daily work load and number of claims typically evaluated.	OVERRULED
49:12-23	Speculation Foundation Asked and Answered Cumulative	Questioning goes to the witnesses qualifications to comment upon pre-existing conditions as part of her evaluation, which she did. Relevant to her lack of qualifications and knowledge regarding the same; relevant to her credibility, as well. Plus, testimony of a party-deponent = admissions.	SUSTAINED
49:24 – 50:8	Speculation Foundation Legal Conclusion	Questioning goes to the witnesses qualifications to comment upon pre-existing conditions as part of her	SUSTAINED

WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
	Vague and Ambiguous Relevance	evaluation, which she did. Relevant to her lack of qualifications and knowledge regarding the same; relevant to her credibility, as well. Plus, testimony of a party-deponent = admissions.	
50:12-20	Speculation Foundation Legal Conclusion Vague and Ambiguous Relevance	Questioning goes to the witnesses qualifications to comment upon pre-existing conditions as part of her evaluation, which she did. Relevant to her lack of qualifications and knowledge regarding the same; relevant to her credibility, as well. Plus, testimony of a party-deponent = admissions.	SUSTAINED
50:24 – 51:16	Speculation Foundation Vague and Ambiguous Relevance Hypothetical	Questioning goes to the witnesses qualifications to comment upon pre-existing conditions as part of her evaluation, which she did, and her complete lack of knowledge regarding Washington law relating to such. Relevant to her lack of qualifications and knowledge regarding the same; relevant to her credibility, as well. Plus, testimony of a party-deponent = admissions.	OVERRULED
51:17 – 52:2	Vague and Ambiguous Hypothetical Relevance Speculation	Questioning goes to the witnesses' qualifications to comment upon pre-existing conditions and other medical issues as an LPN as part of her evaluation, which she did, and her complete lack of knowledge regarding Washington law relating to such. Relevant to her lack of qualifications and knowledge	OVERRULED

WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
		regarding the same; relevant to her credibility, as well. Plus, testimony of a party-deponent = admissions.	
53:18 – 24		No objection; no response required. Testimony goes to the limitations of her licensure and ability to diagnose.	
55:15 – 56:3	Relevance Asked and Answered	Testimony goes to the witnesses' pay structure and that she is paid by Defendant for her claims evaluation work. Goes to bias; admissions of party-deponent also.	OVERRULED
57:25 – 58:8	Speculation More Prejudicial than Probative	Testimony relates to the ODG program she used to evaluate the Plaintiff's claim and her lack of knowledge regarding the validity of the same, etc. Relevant to The Standard's use of a standardized program to evaluate the medical aspects of a claim when both this witness and the adjustor admit their insured is entitled to an individualized evaluation of <i>their</i> claim.	OVERRULED
60:3-7	Speculation	Questioning goes to the witnesses' qualifications to comment upon pre-existing conditions and other medical issues as an LPN as part of her evaluation, which she did, and her complete lack of knowledge regarding Washington law relating to such. Relevant to her lack of qualifications and knowledge regarding the same; relevant to her credibility, as well.	OVERRULED

WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
		Plus, testimony of a party-deponent = admissions.	
60:18 – 61:7	Speculation Foundation Relevance	The testimony relates to the ODG program she used to evaluate the Plaintiff's claim and her lack of knowledge regarding the validity/creation of the same, etc. Relevant to The Standard's use of a standardized program to evaluate the medical aspects of a claim when both this witness and the adjustor admit their insured is entitled to an individualized evaluation of <i>their</i> claim. Also relevant to her lack of qualifications and knowledge regarding the same; relevant to her credibility, as well. Plus, testimony of a party-deponent = admissions.	OVERRULED
61:12-15	Speculation Foundation	The testimony relates to the "one size fits all" ODG program she used to evaluate the Plaintiff's claim and her lack of knowledge regarding the validity/creation of the same, etc. Also is an admission that not all people react the same to trauma or injury in the same way. Relevant to The Standard's use of a standardized program to evaluate the medical aspects of a claim when both this witness and the adjustor admit their insured is entitled to an individualized evaluation of <i>their</i> claim. Also relevant to her lack of qualifications and	OVERRULED

WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
		knowledge regarding the same; relevant to her credibility, as well. Plus, testimony of a party-deponent = admissions.	
62:3-6	Speculation	The testimony relates to the “one size fits all” ODG program she used to evaluate the Plaintiff’s claim and her lack of knowledge regarding the validity/creation of the same, etc. Also is an admission that not all people react the same to trauma or injury in the same way. Relevant to The Standard’s use of a standardized program to evaluate the medical aspects of a claim when both this witness and the adjuster admit their insured is entitled to an individualized evaluation of <i>their</i> claim. Also relevant to her lack of qualifications and knowledge regarding the same; relevant to her credibility, as well. Plus, testimony of a party-deponent = admissions.	OVERRULED
62:25 – 63:11	Foundation Speculation Misstates Prior Testimony	The testimony relates to the “one size fits all” ODG program she used to evaluate the Plaintiff’s claim and her lack of knowledge regarding the validity/creation/input/output of the same, etc. Also is an admission that not all people react the same to trauma or injury in the same way. Relevant to The Standard’s use of a standardized	OVERRULED

1 **WITNESS: TANYA BLACHOWICZ, LPN**

2 PAGE/LINE	OBJECTION	RESPONSE	RULING
3		program to evaluate the medical aspects of a claim when both this witness and the adjuster admit their insured is entitled to an individualized evaluation of <i>their</i> claim. Also relevant to her lack of qualifications and knowledge regarding the same; relevant to her credibility, as well. Plus, testimony of a party-deponent = admissions.	
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11 64:4-12	Speculation	The testimony relates to the exclusive use of the “one size fits all” ODG program she used to evaluate the Plaintiff’s claim and her lack of knowledge regarding the validity/creation/input/output of the same, etc. She also admits she has never departed from the program when evaluating a claim, despite admitting The Standard owed the Plaintiff an individualized claim evaluation. Use of this program is also central to Plaintiff’s bad faith expert’s opinions, as well. Also is an admission that not all people react the same to trauma or injury in the same way. Relevant to The Standard’s use of a standardized program to evaluate the medical aspects of a claim when both this witness and the adjuster admit their insured is entitled to an individualized evaluation of <i>their</i> claim. Also relevant to	OVERRULED
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PAGE/LINE	OBJECTION	RESPONSE	RULING
		her lack of qualifications and knowledge regarding the same; relevant to her credibility, as well. Plus, testimony of a party-deponent = admissions.	
65:22 – 66:2	Speculation Foundation Hypothetical	Questioning goes to the witnesses' qualifications to comment upon pre-existing conditions and other medical issues, including treatment needs (past and future) as an LPN as part of her evaluation, which she did, and her complete lack of knowledge regarding Washington law relating to such. Also goes to her credibility as she went outside the allowable parameters of practice for an LPN in evaluating the Plaintiff's claim, and the adjustor in turn relied on these improper opinions in reaching his evaluation of the claim. Relevant to her lack of qualifications and knowledge regarding the same; relevant to her credibility, as well. Plus, testimony of a party-deponent = admissions.	OVERRULED
69:3-19	Form Speculation	Questioning goes to the witnesses' qualifications to comment upon pre-existing conditions, duration of injuries, permanency of the Plaintiff's injuries, causation and other medical issues, including treatment needs (past and future) as an LPN as part of her evaluation, which she did, and her	OVERRULED

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PAGE/LINE	OBJECTION	RESPONSE	RULING
		complete lack of knowledge regarding Washington law relating to such. Also goes to her credibility as she went outside the allowable parameters of practice for an LPN in evaluating the Plaintiff's claim, and the adjustor in turn relied on these improper opinions in reaching his evaluation of the claim. Relevant to her lack of qualifications and knowledge regarding the same; relevant to her credibility, as well. Plus, testimony of a party-deponent = admissions.	
73:11-18	Foundation	This testimony – re The Standard's prior payments of Plaintiff's medical bills as reasonable and necessary under PIP, and her failure to review information relating to the same is directly relevant to the medical-based opinions she expressed in her evaluation of the Plaintiff's claim, and then the adjustor's reliance on her evaluation and opinions which went far outside of her qualifications and scope of allowable practice, and was also contrary to WA law. Also goes to the lack of thoroughness of her evaluation of the Plaintiff's claim.	OVERRULED
74:9-19	Speculation Asked and Answered	This testimony goes to the witnesses' failure to review relevant medical information relating to the Plaintiff's claim, and is directly relevant	OVERRULED

WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
		to the medical-based opinions she expressed in her evaluation of the Plaintiff's claim, and then the adjustor's reliance on her evaluation and opinions which went far outside of her qualifications and scope of allowable practice, and were also contrary to WA law. Also goes to the lack of thoroughness of her evaluation of the Plaintiff's claim. Relevant on her credibility, as well. Plus, testimony of party-deponent = admissions.	
77:5-14	Speculation	This testimony goes to the witnesses' failure to review relevant medical information relating to the Plaintiff's claim – including the opinions of the Plaintiff's treating and expert physician as part of her evaluation, and is directly relevant to the validity of the medical-based opinions she expressed in her evaluation of the Plaintiff's claim, and also relevant to the adjustor's reliance on her evaluation and opinions, which went far outside of her qualifications and scope of allowable practice, and were also contrary to WA law. Also goes to the lack of thoroughness of her evaluation of the Plaintiff's claim. Relevant on her credibility, as well. Plus, testimony of party-deponent = admissions.	OVERRULED

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PAGE/LINE	OBJECTION	RESPONSE	RULING
80:4-8	Relevance Speculation	This testimony goes to the lack of thoroughness of the witnesses' evaluation of the Plaintiff's claim, with her taking only 3 hours to review a claim that when submitted was hundreds of pages of information.	OVERRULED
83:18 – 84:1		No objection; no response required.	
84:6-25	Form Vague ambiguous and	Questioning goes to the witnesses' qualifications and attempt to speculate upon alleged pre-existing conditions when none are documented, duration of injuries, permanency of the Plaintiff's injuries, causation and other medical issues, including treatment needs (past and future) as an LPN as part of her evaluation, which she did, and her complete lack of knowledge regarding Washington law relating to such. Also goes to her credibility as she went outside the allowable parameters of practice for an LPN in evaluating the Plaintiff's claim, and the adjuster in turn relied on these improper opinions in reaching his evaluation of the claim. Relevant to her lack of qualifications and knowledge regarding the same; relevant to her credibility, as well. Plus, testimony of a party-deponent = admissions. Speculates there may have been prior chronic low back	OVERRULED

WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
		pain based on nothing in the medical records or file.	
95:25 – 96:5	Asked and Answered	The testimony relates to the witnesses' failure to review relevant medical records provided via the demand; is directly relevant to the basis/bias of the medical-based opinions expressed in her evaluation and thoroughness of her review. Her opinions also went far beyond her qualifications, expertise and scope of allowable practice as an LPN and are contrary to WA insurance law. Also relevant to her credibility given that available medical evidence was ignored.	OVERRULED
97:12 – 19	Asked and Answered	Questioning goes to the witnesses' qualifications to comment upon pre-the propriety or need for trigger point injections when, as an LPN she is wholly unqualified to provide the same or order the same; relevant to her commentary on medical conditions and procedures which, as an LPN she is not qualified to comment upon, and thus the propriety of her evaluation of the claim. Also relevant to her complete lack of knowledge regarding Washington law relating to LPN practice limitations. Relevant to her lack of qualifications and knowledge regarding the same; relevant to her credibility and bias, as	OVERRULED

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PAGE/LINE	OBJECTION	RESPONSE	RULING
		well. Plus, testimony of a party-deponent = admissions.	
99:12-21		No objection; no response required. Goes directly to witness bias.	
100:18 – 101:25	Form	The testimony relates to the witnesses' failure to review relevant medical records provided via the demand; is directly relevant to the basis/bias of the medical-based opinions expressed in her evaluation and thoroughness of her review. Her opinions also went far beyond her qualifications, expertise and scope of allowable practice as an LPN and are contrary to WA insurance law. Also relevant to her credibility given that available medical evidence was ignored.	OVERRULED
102:19 – 103:6	Form	This testimony again goes to the witnesses' failure to review different (chiropractic and massage records) relevant medical information relating to the Plaintiff's claim (medical records provided with the demand) and is directly relevant to the validity of the medical-based opinions she expressed in her evaluation of the Plaintiff's claim, and then the adjustor's reliance on her evaluation and opinions which went far outside of her qualifications and scope of allowable practice, and were also contrary to WA law. Also goes to the lack of	OVERRULED

WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
		thoroughness of her evaluation of the Plaintiff's claim. Relevant on her credibility and bias as well (rendering opinions without review of all medical information submitted). Plus, testimony of party-deponent = admissions that relevant medical information was not reviewed and thus ignored.	
105:24 – 106:3	Asked and Answered	This testimony goes to the lack of thoroughness of the witnesses' evaluation of the Plaintiff's claim, with her taking only 3 hours to review a claim that when submitted was hundreds of pages of information. Relevant to credibility and bias of the in-house witnesses' evaluation of the Plaintiff's UIM claim.	OVERRULED
106:17 – 107:12	Asked and Answered	Testimony relates to the witnesses' failure to review relevant medical-claim information from the Plaintiff's physiatrist, ignoring the permanence of her injuries, and is thus directly relevant to the validity and biased nature of the medical-based opinions she expressed in her claim evaluation. Furthermore, her opinions go far outside the scope of her qualifications, expertise and scope of allowable practice as an LPN, and are also contrary to WA law requiring a first-party insurer to have a review done by a "like" medical	OVERRULED

WITNESS: TANYA BLACHOWICZ, LPN

PAGE/LINE	OBJECTION	RESPONSE	RULING
		practitioner. Also relevant to the lack of thoroughness of her evaluation and to her credibility and bias (rendering insurer favorable opinions without review of all available medical information or ignoring that which does not fit the insurer narrative).	
107:23 – 108:3	Form Relevance More Prejudicial than Probative	This testimony goes to the witnesses' failure to acknowledge the lack of documented pre-existing conditions and goes to her credibility and the bias of her evaluation.	SUSTAINED
111:19 – 113:12	Asked and Answered Foundation Speculation Form	Not asked prior, and this discussion of WAC 248-30-395 flushes out The Standard's actions, via this witness, of violation of the WAC by having a non-like, in-house and biased medical provider review the Plaintiff's care and treatment rather than having the same reviewed by an independent and qualified medical provider during the claims evaluation process. Directly relevant to the bad faith and IFCA claims practices violation claims and relevant to the bias of the LPN examiner, as well.	OVERRULED
113:13 – 114:17	Form Asked and Answered	Not asked prior, and this discussion of WAC 248-30-395 flushes out The Standard's actions, via this witness, of violation of the WAC by having a non-like, in-house and biased medical	OVERRULED

1 **WITNESS: TANYA BLACHOWICZ, LPN**

2 PAGE/LINE	OBJECTION	RESPONSE	RULING
3		provider review the Plaintiff's care and treatment rather than having the same reviewed by an independent and qualified medical provider during the claims evaluation process. Directly relevant to the bad faith and IFCA claims practices violation claims and relevant to the bias of the LPN examiner, as well.	
10 115:14 – 116:19	Misstates Prior Testimony	This testimony again goes to the witnesses' failure to review or mention in her evaluation of the claim relevant medical information relating to the Plaintiff's claim from the Plaintiff's primary treating doctor, ignoring the permanence of her injuries and attempting to provide opinions well outside the scope or qualification of an LPN. This testimony is thus directly relevant to the validity, foundation for and biased nature of the medical-based opinions she expressed in her evaluation of the Plaintiff's claim, and thereafter the adjustor's reliance on her evaluation and opinions. Furthermore, her opinions went far outside of her qualifications and scope of allowable practice as an LPN, and were also contrary to WA law requiring a first-party insurer to have a review done by a "like practitioner". Also goes to the lack of thoroughness of	OVERRULED

1 **WITNESS: TANYA BLACHOWICZ, LPN**

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PAGE/LINE	OBJECTION	RESPONSE	RULING
3		her evaluation of the	
4		Plaintiff's claim if this	
5		information was not	
6		reviewed. Relevant on her	
7		credibility and bias as well	
8		(rendering opinions without	
9		review of all medical	
10		information submitted, or	
11		simply ignoring that which	
12		does not fit with what she	
		wanted her findings to be).	
		Plus, testimony of party-	
		deponent = admissions that	
		relevant medical information	
		was not reviewed and thus	
		ignored.	

13 IT IS SO ORDERED.

14 DATED this 22nd day of October, 2024.

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18 HON. JAMAL WHITEHEAD
19 UNITED STATES DISTRICT JUDGE

20 Presented by:

21 QUICK | LAW GROUP, PLLC

22 s/ Bradford J. Fulton

23 Bradford J. Fulton, WSBA #18036

24 Matthew D. Quick, WSBA #47455

25 Brad@QuickLawGroupPLLC.com

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28
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